

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 411
FINAL READING

Introduced by Speaker Bromm, 23; at the request of the Governor

Read first time January 15, 2003

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the medical assistance program; to amend
2 sections 68-1019.02 and 68-1020, Revised Statutes
3 Supplement, 2002; to change provisions relating to
4 coverage and eligibility; to repeal the original
5 sections; and to declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-1019.02, Revised Statutes
2 Supplement, 2002, is amended to read:

3 68-1019.02. The Department of Health and Human Services
4 Finance and Support may initiate the following limits as to amount,
5 duration, and scope of services or goods recipients may receive
6 under the medical assistance program:

7 (1) Chiropractic services for all eligible groups: Limit
8 the number of manual manipulations to eighteen treatments in a
9 five-month period, ~~and~~ limit coverage of stabilization of care to
10 one visit per month, and limit adult chiropractic visits to twenty
11 per year;

12 (2) Podiatric services for all eligible groups: Reduce
13 payment by twelve percent for certain surgical procedures if done
14 in a hospital outpatient setting rather than in the office of a
15 podiatrist;

16 (3) Occupational therapy, physical therapy, and speech,
17 hearing, and language therapy for adults: Limit coverage of therapy
18 provided by home health agencies and emphasize an increase in
19 independent therapy by these health care providers;

20 (4) Limit amount of payments for ventilator-dependent
21 recipients to the cost of care of average institutional costs and
22 limit other in-home nursing costs to the highest case-mix level per
23 diem for nursing facilities;

24 (5) Dental services for adults: Eliminate coverage of
25 cast partial dentures and eliminate coverage of partial dentures
26 except to replace front teeth;

27 (6) Dental services for children: Restrict coverage
28 criteria for children's orthodontics by allowing coverage for (a)

1 craniofacial birth defects affecting the occlusion and (b)
2 mutilated and severe occlusion cases only;

3 (7) Visual care: All routine eye exams to be billed at
4 the intermediate level of care, set maximum payment levels for
5 eyeglass lenses rather than pay laboratory invoice costs, establish
6 medical necessity criteria for eyeglass tints and UV coating, and
7 establish a selection of frame styles coverable, and limit adults
8 to one replacement of frames and lenses per year;

9 ~~(7)~~ (8) Durable medical equipment: Reduce payment levels
10 for equipment and supplies, simplify policies and procedures for
11 converting durable medical equipment rental to purchase, and
12 eliminate future coverage of external powered prosthetic devices;

13 ~~(8)~~ (9) Hearing aids: Reduce hearing aid dispensing fees;

14 ~~(9)~~ (10) Further expand the mandate to use bioequivalent
15 generic drugs;

16 ~~(10)~~ (11) Transportation services: Eliminate
17 transportation to non-medicaid-coverable services except for
18 transportation to adult day services as defined in section 71-404;
19 reimbursements and lodging when provided through a hospital shall
20 be included as a medical transportation service under the medical
21 assistance program; and set taxi reimbursement at seventy-five
22 percent of customary charge; and

23 ~~(11)~~ (12) Eliminate coverage of mileage and conference
24 fees for home-based service providers providing outpatient
25 psychiatric services for adults.

26 Sec. 2. Section 68-1020, Revised Statutes Supplement,
27 2002, is amended to read:

28 68-1020. (1) Medical assistance shall be paid on behalf

1 of (a) dependent children, (b) aged, blind, and disabled persons,
2 as defined in sections 43-504 and 68-1002 to 68-1005, and (c) all
3 persons less than ~~twenty-one~~ nineteen years of age who are eligible
4 under section 1905(a) (i) of the federal Social Security Act, as
5 such section existed on January 1, 2002.

6 (2) The Department of Health and Human Services Finance
7 and Support shall adopt and promulgate rules and regulations
8 governing provision of such medical assistance benefits to
9 qualified persons:

10 (a) Who are presumptively eligible as allowed under ~~42~~
11 ~~U.S.C. 1396a~~, as such section existed on January 1, 2002, and
12 ~~sections 1920A~~ and sections 1920 and 1920B of the federal Social
13 Security Act, as such sections existed on January 1, 2002;

14 (b) Who have a family income equal to or less than one
15 hundred eighty-five percent of the Office of Management and Budget
16 income poverty guideline, as allowed under Title XIX and Title XXI
17 of the federal Social Security Act, as such titles existed on
18 January 1, 2002, without regard to resources, including all
19 children under nineteen years of age and pregnant women as allowed
20 under 42 U.S.C. 1396a, as such section existed on January 1, 2002,
21 and section 2110 of the federal Social Security Act, as such
22 section existed on January 1, 2002. Children described in this
23 subdivision shall remain eligible for six consecutive months from
24 the date of initial eligibility prior to redetermination of
25 eligibility. The department may review eligibility monthly
26 thereafter pursuant to rules and regulations adopted and
27 promulgated by the department. Such rules and regulations shall
28 specify the nature of such reviews and the information upon which

1 such reviews will be based and shall require the consideration of
2 variations in family income and other relevant factors in
3 conducting such reviews. The department may determine upon such
4 review that a child is ineligible for medical assistance benefits
5 if such child no longer meets eligibility standards established by
6 the department. All children currently eligible on August 16,
7 2002, shall have their initial period of continuous eligibility
8 reduced to six months and shall have their eligibility redetermined
9 pursuant to subsection (5) of this section and subdivision (1)(s)
10 of section 68-1713. Beginning on August 16, 2002, the department
11 shall report to the Legislature and the Governor on a quarterly
12 basis until November 3, 2003, and each December 1 thereafter. The
13 report shall include, but shall not be limited to, the number of
14 monthly reviews conducted, the number of children determined to be
15 ineligible under this subdivision, and demographic information
16 concerning the reviews, including family income, county of
17 residence, ages of children, and reasons for ineligibility;

18 (c) Who, for purposes of Title XIX of the federal Social
19 Security Act as provided in subdivision (b) of this subsection, are
20 children in families with income as follows:

21 (i) Equal to or less than one hundred fifty percent of
22 the Office of Management and Budget income poverty guideline with
23 eligible children one year of age or younger;

24 (ii) Equal to or less than one hundred thirty-three
25 percent of the Office of Management and Budget income poverty
26 guideline with eligible children over one year of age and under six
27 years of age; or

28 (iii) Equal to or less than one hundred percent of the

1 Office of Management and Budget income poverty guideline with
2 eligible children six years of age or older and less than nineteen
3 years of age; or

4 (d) Who are medically needy caretaker relatives as
5 allowed under section 1905(a)(ii) of the federal Social Security
6 Act, as such section existed on January 1, 2002. The department
7 shall provide medical assistance until June 30, 2003, to caretaker
8 relatives with family incomes equal to or less than fifty percent
9 of the Office of Management and Budget income poverty guideline and
10 who would otherwise be ineligible for medical assistance on and
11 after August 16, 2002.

12 (3) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii),
13 as such section existed on January 1, 2002, medical assistance
14 shall be paid on behalf of disabled persons as defined in section
15 68-1005 who are in families whose net income is less than two
16 hundred fifty percent of the Office of Management and Budget income
17 poverty guideline applicable to a family of the size involved and
18 who but for earnings in excess of the limit established under 42
19 U.S.C. 1396d(q)(2)(B) of the federal Social Security Act, as such
20 section existed on January 1, 2002, would be considered to be
21 receiving federal Supplemental Security Income. The Department of
22 Health and Human Services shall apply for a waiver to disregard any
23 unearned income that is contingent upon a trial work period in
24 applying the Supplemental Security Income standard. Such disabled
25 persons shall be subject to payment of premiums as a percentage of
26 the family's net income beginning at not less than two hundred
27 percent of the Office of Management and Budget net income poverty
28 guideline. Such premiums shall be graduated based on family income

1 and shall not be less than two percent or more than ten percent of
2 family net income.

3 (4) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii),
4 as such section existed on January 1, 2002, medical assistance
5 shall be paid on behalf of persons who:

6 (a) Have been screened for breast and cervical cancer
7 under the Centers for Disease Control and Prevention breast and
8 cervical cancer early detection program established under Title XV
9 of the federal Public Health Service Act, 42 U.S.C. 300k et seq.,
10 as such sections existed on January 1, 2002, in accordance with the
11 requirements of section 1504 of such act, 42 U.S.C. 300n, as such
12 section existed on January 1, 2002, and who need treatment for
13 breast or cervical cancer, including precancerous and cancerous
14 conditions of the breast or cervix;

15 (b) Are not otherwise covered under creditable coverage,
16 as defined in section 2701(c) of the federal Public Health Service
17 Act, 42 U.S.C. 300gg(c), as such section existed on January 1,
18 2002;

19 (c) Have not attained sixty-five years of age; and

20 (d) Are not eligible for medicaid under any mandatory
21 categorically needy eligibility group.

22 (5) Eligibility shall be determined under this section
23 using an income budgetary methodology that determines children's
24 eligibility at no greater than one hundred eighty-five percent of
25 the Office of Management and Budget income poverty guideline and
26 adult eligibility using adult income standards no greater than the
27 applicable categorical eligibility standards established pursuant
28 to state or federal law. Beginning on August 16, 2002, the

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1 department shall redetermine eligibility under this section
2 pursuant to such income budgetary methodology and subdivision
3 (1)(s) of section 68-1713.

4 (6) The department shall adopt and promulgate rules and
5 regulations to implement this section.

6 Sec. 3. Original sections 68-1019.02 and 68-1020,
7 Revised Statutes Supplement, 2002, are repealed.

8 Sec. 4. Since an emergency exists, this act takes effect
9 when passed and approved according to law.